IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 60 OF 2001.

Mr. Bishen Singh Negi,
Major, Ex-Serviceman,
Residing at Flat No.6,
Balaria Apartments,
Opp. Dias Building,
Mangor Hill,
Vasco-da-Gama, Goa. .... Petitioner.

Versus

1. Union of India,
   Through Secretary of Defence,
   Ministry of Defence,
   New-Delhi.

2. Flag Officer,
   in Commanding Goa Area,
   INS Gomantak,
   Vasco-da-Gama, Goa.

3. Officer-in-Charge,
   INS Hansa, Varunapuri,
   Mangor Hill, Vasco-da-Gama,
   Goa.

4. Estate Officer,
   Captain, Commanding Officer,
   INS Hansa. .... Respondents.

Shri S. S. Kantak, with Ms. R. Chodankar, Advocates for the Petitioner.

Shri E. P. Badri Narayanan, Addl. Central Government Standing Counsel for the Respondents.

CORAM: J. N. PATEL, J.

DATE: 7th DECEMBER, 2006.

ORAL JUDGMENT:

This is a petition impugning the Judgment and Order dated 15th December, 2000 passed by the District Judge, South Goa, Margao dismissing the appeal filed by the petitioner under Section 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

2. The subject matter of the petition is the allotment of Shop No. TY/02, situated at Varunapuri with the naval area under the command of the Naval authorities.

3. The learned counsel appearing for the petitioner on the last date had submitted that in case the premises i.e. Shop No. TY/02 is not let out to any third party and is being used by the Naval authorities for the purpose of distribution of milk under their own scheme and if the authorities clarify that the premises from which GNA milk scheme was being run by the Department for the welfare of sailors is available then there is no reason why the claim of the petitioner should not be considered for continuation as a licensee by fresh allotment of the said premises.

4. In response to the same, an affidavit on behalf of the respondents

has been filed. It is sworn by Capt. G.M. Gopakumar, Commanding Officer, INS Hansa in which he has categorically stated that Ty-Shop No.2 has been utilized for distribution of milk to the sailors and the same will be continued in future to be operated by GNA Milk Scheme. Three Annexures have been filed. In Annexure "A" which has been referred to in para 4 of the affidavit the authorities have made it clear that after shifting the distribution of milk to Ty-Shop No.2 which was earlier being operated from the present quarter, same has been released and made available for re-appropriation, as required by communication dated 19th March, 2001 addressed to the Flag Officer Commanding by the Lieutenant Commander and therefore there is no vacant premises available with the respondents to accommodate the petitioner to carry on his business.

5. In the light of the said affidavit filed by the respondents, the learned counsel for the petitioner submits that the Court may dispose of the petition. Apart from merits, this Court finds that as nothing survives in the petition and the Ty-Shop No.2 from which the petitioner was evicted under the impugned order, has been appropriated by the authorities for their own use i.e. for distribution of milk under their scheme which was earlier being operated from the quarter, nothing survives in the petition. Same is dismissed as infructuous. Needless to say that in future if any shop premises are vacant and available for being given on leave and licence, it

will be open for the petitioner to apply for the same in accordance with the Rules.

J. N. PATEL, J.

sl.